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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

General comment No. 6 (2018) on equality and non-discrimination*

I. Introduction

1. The aim of the present general comment is to clarify the obligations of States parties regarding non-discrimination and equality as enshrined in article 5 of the Convention on the Rights of Persons with Disabilities.

2. The Committee is concerned that the laws and policies of States parties still approach disability through charity and/or medical models, despite the incompatibility of those models with the Convention. The persistent use of such paradigms fails to acknowledge persons with disabilities as full subjects of rights and as rights holders. In addition, the Committee notes that the efforts by States parties to overcome attitudinal barriers to disability have been insufficient. Examples include enduring and humiliating stereotypes, and stigma of and prejudices against persons with disabilities as being a burden on society. In response, it is critical that persons with disabilities, through their representative organizations, play a central role in the development of legal and policy reforms.

3. The broadening of anti-discrimination laws and human rights frameworks has led to extended protection of the rights of persons with disabilities in many States parties. Nevertheless, laws and regulatory frameworks often remain imperfect and incomplete or ineffective, or reflect an inadequate understanding of the human rights model of disability. Many national laws and policies perpetuate the exclusion and isolation of and discrimination and violence against persons with disabilities. They often lack a recognition of multiple and intersectional discrimination or discrimination by association; fail to acknowledge that the denial of reasonable accommodation constitutes discrimination; and lack effective mechanisms of legal redress and reparation. Such laws and policies are commonly not regarded as disability-based discrimination because they are justified as being for the protection or care of the persons with a disability, or in their best interest.

II. Equality for and non-discrimination against persons with disabilities in international law

4. Equality and non-discrimination are among the most fundamental principles and rights of international human rights law. Because they are interconnected with human dignity, they are the cornerstones of all human rights. In its articles 1 and 2, the Universal Declaration of Human Rights proclaims that everyone is equal in dignity and rights, and condemns discrimination on a non-exhaustive number of grounds.

* Adopted by the Committee at its nineteenth session (14 February–9 March 2018).

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5. Equality and non-discrimination are at the core of all human rights treaties. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights prohibit discrimination on an open list of grounds, from which article 5 of the Convention originated. All of the thematic United Nations human rights conventions[1] aim to establish equality and eliminate discrimination, and contain provisions on equality and non-discrimination. The Convention on the Rights of Persons with Disabilities has taken into account the experiences offered by the other conventions, and its equality and non-discrimination principles represent the evolution of the United Nations tradition and approach.

6. The term "dignity" appears in the Convention more often than in any other United Nations human rights convention. It is included in the preamble, in which States parties recall the Charter of the United Nations and the principles proclaimed therein, which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.

7. Equality and non-discrimination are at the heart of the Convention and evoked consistently throughout its substantive articles with the repeated use of the wording "on an equal basis with others", which links all substantive rights of the Convention to the non-discrimination principle. Dignity, integrity and equality of the person have been denied to those with actual or perceived impairments. Discrimination has occurred and continues to occur, including in brutal forms such as non-consensual and/or forced systematic sterilizations and medical or hormone-based interventions (e.g. lobotomy or the Ashley treatment), forced drugging and forced electroshocks, confinement, systematic murder labelled "euthanasia", forced and coerced abortion, denied access to health care, and mutilation and trafficking in body parts, particularly of persons with albinism.

III. The human rights model of disability and inclusive equality

8. Individual or medical models of disability prevent the application of the equality principle to persons with disabilities. Under the medical model of disability, persons with disabilities are not recognized as rights holders but are instead "reduced" to their impairments. Under these models, discriminatory or differential treatment against and the exclusion of persons with disabilities is seen as the norm and is legitimized by a medically driven incapacity approach to disability. Individual or medical models were used to determine the earliest international laws and policies relating to disability, even after the first attempts to apply the concept of equality to the context of disability. The Declaration on the Rights of Mentally Retarded Persons (1971) and the Declaration on the Rights of Disabled Persons (1975) were the first human rights instruments that contained equality and non-discrimination provisions for persons with disabilities. While these early soft-law human rights instruments paved the way for an equality approach to disability, they were still based on the medical model of disability, as impairment was seen as a legitimate ground for restricting or denying rights. They also include language that is now considered inappropriate or obsolete. A further step was taken in 1993 with the adoption of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, which proclaimed "equality of opportunities" a fundamental concept of disability policy and law.

9. The human rights model of disability recognizes that disability is a social construct and impairments must not be taken as a legitimate ground for the denial or restriction of human rights. It acknowledges that disability is one of several layers of identity. Hence, disability laws and policies must take the diversity of persons with disabilities into account. It also recognizes that human rights are interdependent, interrelated and indivisible.

[1] The International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the International Convention for the Protection of All Persons from Enforced Disappearance.

10. Equalization of opportunities, as a general principle of the Convention under article 3, marks a significant development from a formal model of equality to a substantive model of equality. Formal equality seeks to combat direct discrimination by treating persons in a similar situation similarly. It may help to combat negative stereotyping and prejudices, but it cannot offer solutions for the "dilemma of difference", as it does not consider and embrace differences among human beings. Substantive equality, by contrast, also seeks to address structural and indirect discrimination and takes into account power relations. It acknowledges that the "dilemma of difference" entails both ignoring and acknowledging differences among human beings in order to achieve equality.

11. Inclusive equality is a new model of equality developed throughout the Convention. It embraces a substantive model of equality and extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity. The Convention is based on inclusive equality.

IV. Legal character of non-discrimination and equality

12. Equality and non-discrimination are principles and rights. The Convention refers to them in article 3 as principles and in article 5 as rights. They are also an interpretative tool for all the other principles and rights enshrined in the Convention. The principles/rights of equality and non-discrimination are a cornerstone of the international protection guaranteed by the Convention. Promoting equality and tackling discrimination are cross-cutting obligations of immediate realization. They are not subject to progressive realization.

13. Article 5 of the Convention, like article 26 of the International Covenant on Civil and Political Rights, provides in itself an autonomous right independent from other provisions. It prohibits de jure or de facto discrimination in any field regulated and protected by public authority. Read together with article 4 (1) (e), it is also evident that it extends to the private sector.

V. Normative content

A. Article 5 (1) on being equal before and under the law

14. Several international human rights treaties include the term "equal before the law", which describes the entitlement of persons to equal treatment by and in the application of the law, as a field. In order that this right may be fully realized, the judiciary and law enforcement officers must not, in the administration of justice, discriminate against persons with disabilities. "Equality under the law" is unique to the Convention. It refers to the possibility to engage in legal relationships. While equality before the law refers to the right to be protected by the law, equality under the law refers to the right to use the law for personal benefit. Persons with disabilities have the right to be effectively protected and to positively engage. The law itself shall guarantee the substantive equality of all those within a given jurisdiction. Thus, the recognition that all persons with disabilities are equal under the law means that there should be no laws that allow for specific denial, restriction or limitation of the rights of persons with disabilities, and that disability should be mainstreamed in all legislation and policies.

15. This interpretation of the terms "being equal before the law" and "being equal under the law" is in line with articles 4 (1) (b) and (c) of the Convention, according to which States parties must ensure that public authorities and institutions act in conformity with the Convention; that existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities are modified or abolished; and that the

protection and promotion of the rights of persons with disabilities is taken into account in all policies and programmes.

B. Article 5 (1) on equal protection and equal benefit of the law

16. "Equal protection of the law" and "equal benefit of the law" include related but distinct concepts of equality and non-discrimination. The phrase "equal protection of the law" is well known in international human rights treaty law and is used to demand that national legislatures refrain from maintaining or establishing discrimination against persons with disabilities when enacting laws and policies. Reading article 5 in conjunction with articles 1, 3 and 4 of the Convention, it is clear that, in order to facilitate the enjoyment by persons with disabilities on an equal basis of the rights guaranteed under legislation, States parties must take positive actions. Accessibility, reasonable accommodation and individual supports are often required. To ensure equal opportunity for all persons with disabilities, the term "equal benefit of the law" is used, meaning that States parties must eliminate barriers to gaining access to all of the protections of the law and the benefits of equal access to the law and justice to assert rights.

C. Article 5 (2) on the prohibition of discrimination and equal and effective legal protection

17. Article 5 (2) contains the legal requirements for achieving equality rights for persons with disabilities and persons associated with them. The obligations to prohibit all discrimination on the basis of disability includes persons with disabilities and their associates, e.g. parents of children with disabilities. The obligation to guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds is far-reaching and imposes positive duties of protection on States parties. Disability-based discrimination is defined in article 2 as "any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation." That definition is based on legal definitions of discrimination in international human rights treaties, such as article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. It goes beyond those definitions in two aspects: first, it includes "denial of reasonable accommodation" as a form of disability-based discrimination; second, the phrase "on an equal basis with others" is a new component. In its articles 1 and 3, the Convention on the Elimination of All Forms of Discrimination against Women contains a similar but more limited phrase: "on a basis of equality of men and women". The phrase "on an equal basis with others" is not only limited to the definition of disability-based discrimination but also permeates the whole Convention on the Rights of Persons with Disabilities. On the one hand, it means that persons with disabilities will not be granted more or fewer rights or benefits than the general population. On the other hand, it requires that States parties take concrete specific measures to achieve de facto equality for persons with disabilities to ensure that they can in fact enjoy all human rights and fundamental freedoms.

18. The duty to prohibit "all discrimination" includes all forms of discrimination. International human rights practice identifies four main forms of discrimination, which can occur individually or simultaneously:

(a) "Direct discrimination" occurs when, in a similar situation, persons with disabilities are treated less favourably than other persons because of a different personal status in a similar situation for a reason related to a prohibited ground. Direct discrimination includes detrimental acts or omissions based on prohibited grounds where there is no

comparable similar situation.[2] The motive or intention of the discriminating party is not relevant to a determination of whether discrimination has occurred. For example, a State school that refuses to admit a child with disabilities in order not to change the scholastic programmes does so just because of his or her disability and is an example of direct discrimination;

(b) "Indirect discrimination"[3] means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity itself. For example, if a school does not provide books in Easy-Read format, it would indirectly discriminate against persons with intellectual disabilities, who, although technically allowed to attend the school, would in fact need to attend another. Similarly, if a candidate with restricted mobility had a job interview on a second floor office in a building without an elevator, although allowed to sit the interview, the situation puts him/her in an unequal position;

(c) "Denial of reasonable accommodation", according to article 2 of the Convention, constitutes discrimination if the necessary and appropriate modification and adjustments (that do not impose a "disproportionate or undue burden") are denied and are needed to ensure the equal enjoyment or exercise of a human right or fundamental freedom. Not accepting an accompanying person or refusing to otherwise accommodate a person with a disability are examples of denial of reasonable accommodation;

(d) "Harassment" is a form of discrimination when unwanted conduct related to disability or other prohibited grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. It can happen through actions or words that have the effect of perpetuating the difference and oppression of persons with disabilities. Particular attention should be paid to persons with disabilities living in segregated places, such as residential institutions, special schools or psychiatric hospitals, where this type of discrimination is more likely to occur and is by nature invisible, and so not likely to be punished. "Bullying" and its online form, cyberbullying and cyberhate, also constitute particularly violent and harmful forms of hate crimes. Other examples include (disability-based) violence in all its appearances, such as rape, abuse and exploitation, hate-crime and beatings.

19. Discrimination can be based on a single characteristic, such as disability or gender, or on multiple and/or intersecting characteristics. "Intersectional discrimination" occurs when a person with a disability or associated to disability suffers discrimination of any form on the basis of disability, combined with, colour, sex, language, religion, ethnic, gender or other status. Intersectional discrimination can appear as direct or indirect discrimination, denial of reasonable accommodation or harassment. For example, while the denial of access to general health-related information due to inaccessible format affects all persons on the basis of disability, the denial to a blind woman of access to family planning services restricts her rights based on the intersection of her gender and disability. In many cases, it is difficult to separate these grounds. States parties must address multiple and intersectional discrimination against persons with disabilities. "Multiple discrimination" according to the Committee is a situation where a person can experience discrimination on two or several grounds, in the sense that discrimination is compounded or aggravated. Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable and thereby expose relevant individuals to unique types of disadvantage and discrimination.[4]

20. Discrimination "on the basis of disability" can be against persons who have a disability at present, who have had a disability in the past, who have a disposition to a disability that lies in the future, who are presumed to have a disability, as well as those who

[2] See Committee on Economic, Social and Cultural Rights general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 10.

[3] Ibid.

[4] See Committee on the Rights of Persons with Disabilities general comment No. 3 (2016) on women and girls with disabilities, paras. 4 (c) and 16.

are associated with a person with a disability. The latter is known as "discrimination by association". The reason for the wide scope of article 5 is to eradicate and combat all discriminatory situations and/or discriminatory conducts that are linked to disability.

21. Protection against "discrimination on all grounds" means that all possible grounds of discrimination and their intersections must be taken into account. Possible grounds include but are not limited to: disability; health status; genetic or other predisposition towards illness; race; colour; descent; sex; pregnancy and maternity/paternity; civil; family or career status; gender expression; sex; language; religion; political or other opinion; national, ethnic, indigenous or social origin; migrant, refugee or asylum status; belonging to a national minority; economic or property status; birth; and age, or a combination of any of those grounds or characteristics associated with any of those grounds.

22. "Equal and effective legal protection against discrimination" means that States parties have positive obligations to protect persons with disabilities from discrimination, with an obligation to enact specific and comprehensive anti-discrimination legislation. The explicit legal prohibition of disability-based and other discrimination against persons with disabilities in legislation should be accompanied by the provision of appropriate and effective legal remedies and sanctions in relation to intersectional discrimination in civil, administrative and criminal proceedings. Where the discrimination is of a systemic nature, the mere granting of compensation to an individual may not have any real effect in terms of changing the approach. In those cases, States parties should also implement "forward-looking, non-pecuniary remedies" in their legislation, meaning that further effective protection against discrimination carried out by private parties and organizations is provided by the State party.

D. Article 5 (3) on reasonable accommodation

23. Reasonable accommodation is an intrinsic part of the immediately applicable duty of non-discrimination in the context of disability.[5] Examples of reasonable accommodations include making existing facilities and information accessible to the individual with a disability; modifying equipment; reorganizing activities; rescheduling work; adjusting curricula learning materials and teaching strategies; adjusting medical procedures; or enabling access to support personnel without disproportionate or undue burden.

24. Reasonable accommodation duties are different from accessibility duties. Both aim to guarantee accessibility, but the duty to provide accessibility through universal design or assistive technologies is an ex ante duty, whereas the duty to provide reasonable accommodation is an *ex nunc* duty:

(a) As an ex ante duty, accessibility must be built into systems and processes without regard to the need of a particular person with a disability, for example, to have access to a building, a service or a product, on an equal basis with others. States parties must set accessibility standards that are developed and adopted in consultation with organizations of persons with disabilities, consistent with article 4 (3) of the Convention. The duty of accessibility is a proactive, systemic duty;

(b) As an *ex nunc* duty, reasonable accommodation must be provided from the moment that a person with a disability requires access to non-accessible situations or environments, or wants to exercise his or her rights. Reasonable accommodation is often but not necessarily requested by the person who requires access, or by relevant representatives of a person or a group of people. Reasonable accommodation must be negotiated with the applicant(s). In certain circumstances, the reasonable accommodation provided becomes a collective or public good. In other cases, the reasonable accommodations provided only benefit the applicant(s). The duty to provide reasonable accommodation is an individualized reactive duty that is applicable from the moment a request for accommodation is received. Reasonable accommodation requires the duty bearer to enter into dialogue with the individual with a disability. It is important to note that

[5] See Committee on Economic, Social and Cultural Rights general comment No. 5 (1994) on persons with disabilities, para. 15.

the duty to provide reasonable accommodation is not limited to situations in which the person with a disability has asked for an accommodation or in which it could be proved that the alleged duty bearer was actually aware that the person in question had a disability. It should also apply in situations where a potential duty bearer should have realized that the person in question had a disability that might require accommodations to address barriers to exercising rights.

25. The duty to provide reasonable accommodation in accordance with articles 2 and 5 of the Convention can be broken down into two constituent parts. The first part imposes a positive legal obligation to provide a reasonable accommodation which is a modification or adjustment that is necessary and appropriate where it is required in a particular case to ensure that a person with a disability can enjoy or exercise her or his rights. The second part of this duty ensures that those required accommodations do not impose a disproportionate or undue burden on the duty bearer.

(a) "Reasonable accommodation" is a single term, and "reasonable" should not be misunderstood as an exception clause; the concept of "reasonableness" should not act as a distinct qualifier or modifier to the duty. It is not a means by which the costs of accommodation or the availability of resources can be assessed — this occurs at a later stage, when the "disproportionate or undue burden" assessment is undertaken. Rather, the reasonableness of an accommodation is a reference to its relevance, appropriateness and effectiveness for the person with a disability. An accommodation is reasonable, therefore, if it achieves the purpose (or purposes) for which it is being made, and is tailored to meet the requirements of the person with a disability;

(b) "Disproportionate or undue burden" should be understood as a single concept that sets the limit of the duty to provide reasonable accommodation. Both terms should be considered synonyms insofar as they refer to the same idea: that the request for reasonable accommodation needs to be bound by a possible excessive or unjustifiable burden on the accommodating party;

(c) "Reasonable accommodation" should also not be confused with "specific measures", including "affirmative action measures". While both concepts aim at achieving de facto equality, reasonable accommodation is a non-discrimination duty, whereas specific measures imply a preferential treatment of persons with disabilities over others to address historic and/or systematic/systemic exclusion from the benefits of exercising rights. Examples of specific measures include temporary measures for countering the low numbers of women with disabilities employed in the private sector and support programmes to increase the number of students with disabilities in tertiary education. Similarly, reasonable accommodation should not be confused with the provision of support, such as personal assistants, under the right to live independently and be included in the community, or support to exercise legal capacity;

(d) "Procedural accommodations" in the context of access to justice should not be confused with reasonable accommodation; while the latter is limited by the concept of disproportionality, procedural accommodations are not.

26. Key elements that guide the implementation of the duty to provide reasonable accommodation include:

(a) Identifying and removing barriers that have an impact on the enjoyment of human rights for persons with disabilities, in dialogue with the person with a disability concerned;

(b) Assessing whether an accommodation is feasible (legally or in practice) — an accommodation that is legally or materially impossible is unfeasible;

(c) Assessing whether the accommodation is relevant (i.e., necessary and appropriate) or effective in ensuring the realization of the right in question;

(d) Assessing whether the modification imposes a disproportionate or undue burden on the duty bearer; the determination of whether a reasonable accommodation is disproportionate or unduly burdensome requires an assessment of the proportional

relationship between the means employed and its aim, which is the enjoyment of the right concerned;

(e) Ensuring that the reasonable accommodation is suitable to achieve the essential objective of the promotion of equality and the elimination of discrimination against persons with disabilities. A case-by-case approach based on consultations with the relevant body charged with reasonable accommodation and the person concerned is therefore required. Potential factors to be considered include financial costs, resources available (including public subsidies), the size of the accommodating party (in its entirety), the effect of the modification on the institution or the enterprise, third-party benefits, negative impacts on other persons and reasonable health and safety requirements. Regarding the State party as a whole and the private sector entities, overall assets rather than just the resources of a unit or department within an organizational structure must be considered;

(f) Ensuring that the persons with a disability more broadly do not bear the costs;

(g) Ensuring that the burden of proof rests with the duty bearer who claims that his or her burden would be disproportionate or undue.

27. Any justification of the denial of reasonable accommodation must be based on objective criteria and analysed and communicated in a timely fashion to the person with a disability concerned. The justification test in reasonable accommodation is related to the length of the relationship between the duty bearer and the rights holder.

E. Article 5 (4) on specific measures

28. Specific measures not to be regarded as discrimination are positive or affirmative measures that aim to accelerate or achieve de facto equality of persons with disabilities. Such measures are mentioned in other international human rights treaties, such as article 4 of the Convention on the Elimination of All Forms of Discrimination against Women or article 1 (4) of the International Convention on the Elimination of All Forms of Racial Discrimination, and entail adopting or maintaining certain advantages in favour of an underrepresented or marginalized group. They are usually temporary in nature, although in some instances permanent specific measures are required, depending on context and circumstances, including by virtue of a particular impairment or the structural barriers of society. Examples of specific measures include outreach and support programmes, allocation and/or reallocation of resources, targeted recruitment, hiring and promotion, quota systems, advancement and empowerment measures, as well as respite care and technological aids.

29. Specific measures adopted by States parties under article 5 (4) of the Convention must be consistent with all its principles and provisions. In particular, they must not result in perpetuation of isolation, segregation, stereotyping, stigmatization or otherwise discrimination against persons with disabilities. Thus, States parties must consult closely with and actively involve representative organizations of persons with disabilities when they adopt specific measures.

VI. General obligations of States parties under the Convention relating to non-discrimination and equality

30. States parties have an obligation to respect, protect and fulfil the right of all persons with disabilities to non-discrimination and equality. In that regard, States parties must refrain from any action that discriminates against persons with disabilities. In particular, States parties shall modify or abolish existing laws, regulations, customs and practices that constitute such discrimination. The Committee has often given examples in that regard including: guardianship laws and other rules infringing upon the right to legal capacity;[6]

[6] See Committee on the Rights of Persons with Disabilities general comment No. 1 (2014) on equal recognition before the law.

mental health laws that legitimize forced institutionalization and forced treatment, which are discriminatory and must be abolished;[7] non-consensual sterilization of women and girls with disabilities; inaccessible housing and institutionalization policy;[8] segregated education laws and policies;[9] and election laws that disenfranchise persons with disabilities.[10]

31. The effective enjoyment of the rights to equality and non-discrimination calls for the adoption of enforcement measures, such as:

(a) Measures to raise the awareness of all people about the rights of persons with disabilities under the Convention, the meaning of discrimination and the existing judicial remedies;

(b) Measures to ensure rights contained in the Convention are actionable in domestic courts and provide access to justice for all persons who have experienced discrimination;

(c) Protection from retaliation, such as adverse treatment or adverse consequences in reaction to a complaint or to proceedings aimed at enforcing compliance with equality provisions;

(d) The legal right to bring a lawsuit to court and to pursue claims through associations, organizations or other legal entities that have a legitimate interest in the realization of the right to equality;

(e) Specific rules relating to evidence and proof to ensure that stereotyped attitudes about the capacity of persons with disabilities do not result in victims of discrimination being inhibited in obtaining redress;

(f) Effective, proportionate and dissuasive sanctions for breach of the right to equality and adequate remedies;

(g) Sufficient and accessible provision of legal aid to ensure access to justice for the claimant in discrimination litigation.

32. States parties must identify areas or subgroups of persons with disabilities — including those who face intersectional discrimination — that require specific measures to accelerate or achieve inclusive equality. States parties are under an obligation to adopt specific measures for such groups.

33. Regarding the consultation obligations of States parties, article 4 (3) and article 33 (3) of the Convention emphasize the important role that organizations of persons with disabilities must play in the implementation and monitoring of the Convention. States parties must ensure that they consult closely and actively involve such organizations, which represent the vast diversity in society, including children, autistic persons, persons with a genetic or neurological condition, persons with rare and chronic diseases, persons with albinism, lesbian, gay, bisexual, transgender or intersex persons, indigenous peoples, rural communities, older persons, women, victims of armed conflicts and persons with an ethnic minority or migrant background. Only then can it be expected that all discrimination, including multiple and intersectional discrimination, will be tackled.

34. States parties have information obligations in relation to article 5 of the Convention in that they must collect and analyse appropriate data and research information in order to identify inequalities, discriminatory practices and patterns of disadvantage, and analyse the effectiveness of measures promoting equality. The Committee has observed that, in many States parties, there is a lack of updated data on disability discrimination and that often, in cases where the national law and regulations allow it, no differentiation is made according to impairment, gender, sex, gender identity, ethnicity, religion, age or other layers of

[7] See Committee on the Rights of Persons with Disabilities, guidelines on article 14, paras. 6 and 14. Available from the Committee's web page (www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx).

[8] See, for example, general comment No. 5 (2017) on living independently and being included in the community, para. 46.

[9] See general comment No. 4 (2016) on the right to inclusive education, para. 24.

[10] See *Bujdosó et al v. Hungary* (CRPD/C/10/D/4/2011).

identity. Such data and its analysis are of paramount importance for developing effective anti-discrimination and equality measures.

35. States parties should also conduct appropriate research on disability discrimination and equality rights for persons with disabilities. Research agendas must embed persons with disabilities in research processes from the agenda-setting stage to ensure their meaningful participation in research. Inclusive and participatory research processes should ensure a safe space for participants and centre around the lived experiences and requirements of persons with disabilities.

VII. Relationship with other specific articles of the Convention

A. Article 6 on women with disabilities

36. Women and girls with disabilities are among those groups of persons with disabilities who most often experience multiple and intersectional discrimination.[11] Article 6 is a cross-cutting article and must be taken into account in relation to all provisions of the Convention.[12] While only article 6 mentions the term "multiple discrimination", multiple and intersectional discrimination may occur in any combination of two or more grounds. Article 6 is a binding equality and non-discrimination article that prohibits discrimination against women and girls with disabilities and obliges States parties to promote equality of both opportunity and outcomes. Moreover, article 6, like article 7, must be regarded as illustrative, rather than exhaustive, setting out obligations in respect of the two prominent examples of multiple and intersectional discrimination.

B. Article 7 on children with disabilities

37. Children with disabilities often experience multiple, and intersectional discrimination. States parties must prohibit all forms of discrimination on the basis of disability that are specific to children; provide effective and accessible remedies; and raise awareness among the public and professionals to prevent and eliminate discrimination. In many States parties, for instance, children can lawfully be assaulted under the guise of "discipline" or "safety" (e.g. restraint). This physical punishment often disproportionately affects children with disabilities. States parties must prohibit all forms of corporal punishment and cruel, inhuman and degrading treatment of children, in all settings, and ensure appropriate measures are taken to enforce this ban.

38. The concept of the "best interests of the child" contained in article 3 of the Convention on the Rights of the Child should be applied to children with disabilities with careful consideration of their circumstances. States parties should promote the mainstreaming of disability in general laws and policies on childhood and adolescence. The concept of best interest, however, should not be used to prevent children, especially girls with disabilities, from exercising their right to bodily integrity. It should be used to ensure that children with disabilities are informed, consulted and have a say in every decision-making process related to their situation. In particular, States parties should address violence and institutionalization of children with disabilities, who are denied the right to grow up in their families as a matter of discrimination. States parties should implement deinstitutionalization strategies that help children to live with their families or in alternative family care in the community. States parties should also adopt support measures to enable all children with disabilities to exercise their right to be heard, in all procedures that affect them, including in parliament, committees and bodies of political decision-making.

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[11] See Committee on the Elimination of Discrimination against Women general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 31.

[12] See Committee on the Rights of Persons with Disabilities general comment No. 3, para. 12.

C. Article 8 on awareness-raising

39. Discrimination cannot be combated without awareness-raising among all sectors of government and society. Thus, any non-discrimination and equality measure must be accompanied by adequate awareness-raising measures and measures to change or abolish compounded pejorative disability stereotypes and negative attitudes. In addition, violence, harmful practices and prejudices must be tackled by awareness-raising campaigns. States parties should undertake measures to encourage, inter alia, the media to portray persons with disabilities in a manner consistent with the purpose of the Convention and to modify harmful views of persons with disabilities, such as those that portray them unrealistically as being dangerous to themselves and others, or sufferers and dependent objects of care without autonomy who are unproductive economic and social burdens to society.

D. Article 9 on accessibility

40. Accessibility is a precondition and a means to achieve de facto equality for all persons with disabilities. For persons with disabilities to effectively participate in the community, States parties must address accessibility of the built environment, public transport, as well as information and communication services, which must be available and usable for all persons with disabilities on an equal basis with others. Accessibility in the context of communication services includes the provision of social and communication support.

41. As noted above, accessibility and reasonable accommodations are two distinct concepts of equality laws and policies:

(a) Accessibility duties relate to groups and must be implemented gradually but unconditionally;

(b) Reasonable accommodation duties, on the other hand, are individualized, apply immediately to all rights and may be limited by disproportionality.

42. Because the gradual realization of accessibility in the built environment, public transportation and information and communication services may take time, reasonable accommodation may be used as a means to provide access to an individual in the meantime, as it is an immediate duty. The Committee calls upon States parties to be guided by its general comment No. 2 (2014) on accessibility.

E. Article 11 on situations of risk and humanitarian emergencies

43. Non-discrimination must be ensured in situations of risk and humanitarian emergencies, based also on obligations in international humanitarian law, including humanitarian disarmament law, to address the increased risk inherent in such situations, of discrimination against persons with disabilities.

44. Internationally displaced persons with disabilities and/or refugees with disabilities often lack equal access to basic necessities, such as water, sanitation, food and shelter. For example, accessible hygiene facilities like latrines and showers often do not exist or are insufficient.

45. Women and girls with disabilities in situations of risk and humanitarian emergencies are at a particularly increased risk of violence, including sexual violence, exploitation or abuse and are less likely to be able to have access to recovery and rehabilitation services or access to justice.[13]

46. States parties are therefore required to ensure the principle of non-discrimination in all programmes and actions. This means to include on an equal basis persons with disabilities in national emergency protocols, to fully recognize persons with disabilities in evacuation scenarios, to provide for accessible information and communication helplines

[13] See general comment No. 3, paras. 49–50.

and hotlines, to ensure that humanitarian aid relief is distributed in an accessible, non-discriminatory way to persons with disabilities in humanitarian emergencies, and to ensure that water, sanitation and hygiene facilities in emergency shelters and refugee camps are available and accessible for persons with disabilities. After emergencies, accessible reconstruction is decisive for the equality of persons with disabilities in society. To ensure these elements, States parties must closely engage with persons with disabilities through their representative organizations, in the design and implementation, monitoring and evaluation of legislation and policies related to all the stages of emergencies.

F. Article 12 on equal recognition before the law

47. The right to legal capacity is a threshold right, that is, it is required for the enjoyment of almost all other rights in the Convention, including the right to equality and non-discrimination. Articles 5 and 12 are fundamentally connected, because equality before the law must include the enjoyment of legal capacity by all persons with disabilities on an equal basis with others. Discrimination through denial of legal capacity may be present in different ways, including status-based, functional and outcome-based systems. Denial of decision-making on the basis of disability through any of these systems is discriminatory.[14]

48. A key difference between the reasonable accommodation obligation under article 5 of the Convention and the support that must be provided for persons with disabilities exercising their legal capacity under article 12 (3) is that there is no limit on the obligation under article 12 (3). The fact that support to exercise capacity may impose a disproportionate or undue burden does not limit the requirement to provide it.

49. To ensure consistency between articles 5 and 12 of the Convention, States parties should:

(a) Reform existing legislation to prohibit discriminatory denial of legal capacity, premised on status-based, functional or outcome-based models. Where appropriate, replace those with models of supported decision-making, taking into account universal adult legal capacity without any form of discrimination;

(b) Provide resources to systems of supported decision-making to assist persons with disabilities to navigate existing legal systems. Legislating and resourcing such services should be consistent with the key provisions identified in paragraph 29 of general comment No. 1 (2014) on equal recognition before the law. This includes basing any systems of support on giving effect to the rights, will and preferences of those receiving support rather than what is perceived as being in their best interests. The best interpretation of will and preferences should replace best-interest concept in all matters related to adults where it is not practicable to determine the person's will and preferences;

(c) States parties should provide protection against discrimination by establishing an accessible, locally available, low-threshold network of high-quality free legal counselling or legal aid, which must respect the will and preferences of these persons and protect their procedural rights (right to legal capacity) at the same level as for other types of legal representation. States parties must consistently ensure that instruments for protection are not based on removing legal capacity or otherwise hindering the access of persons with disabilities to justice.

50. Training and education should be provided for relevant agencies, such as legal decision makers, service providers or other stakeholders. States parties are obliged to ensure the equal enjoyment of all goods and services offered in society, including the goods and services listed in article 12 (5), which provides examples of goods that persons with disabilities are particularly precluded from, such as property or services connected to financial affairs, e.g. mortgages. Article 25 (e) mentions another service which is usually not open to persons with disabilities, namely, that of life insurance and (private) health insurance. States parties should take an active, comprehensive approach to ensure equal enjoyment of goods and services in the private sector. That includes a strengthening of the

[14] See general comment No. 1, para. 15.

anti-discrimination legislation as it applies to the private sector. Cooperation with trade unions and other actors should be utilized to find partners willing to bring about change.

G. Article 13 on access to justice

51. The rights and obligations with respect to equality and non-discrimination outlined in article 5 raise particular considerations with respect to article 13, which, among others, call for the provision of procedural and age-appropriate accommodations. These accommodations are distinguishable from reasonable accommodation in that procedural accommodations are not limited by disproportionality. An illustration of a procedural accommodation is the recognition of diverse communication methods of persons with disabilities standing in courts and tribunals. Age-appropriate accommodations may consist of disseminating information about available mechanisms to bring complaints forward and access to justice using age-appropriate and plain language.

1. Article 13 (1)

52. In order to ensure effective access to justice, processes must allow participation and be transparent. Actions that enable participation include:

(a) Delivery of information in an understandable and accessible manner;

(b) Recognition and accommodation of diverse forms of communication;

(c) Physical accessibility throughout all stages of the process;

(d) Financial assistance in the case of legal aid, where applicable, and subject to statutory tests of means and merits.

53. Suitable measures that can protect persons who are unable to defend themselves against discrimination, even when provided with support, or whose options are greatly limited by fear of the negative consequences of such attempts, are actions in public interest (*actio popularis*).

54. Furthermore, in order to provide transparency, a State party action must ensure that all relevant information is accessible and available and that there is adequate recording and reporting of all relevant claims, cases and court orders.

2. Article 13 (2)

55. In order to encourage appropriate respect for and fulfilment of rights and obligations, it is necessary to train law enforcement officers, raise awareness among rights holders and build the capacity of duty bearers. Appropriate training should include:

(a) The complexities of intersectionality and the fact that persons should not be identified purely on the basis of impairment. Awareness-raising on intersectionality issues should be relevant to particular forms of discrimination and oppression;

(b) The diversity among persons with disabilities and their individual requirements in order to gain effective access to all aspects of the justice system on an equal basis with others;

(c) The individual autonomy of persons with disabilities and the importance of legal capacity for all;

(d) The centrality of effective and meaningful communications to successful inclusion;

(e) Measures adopted to ensure the effective training of personnel, including lawyers, magistrates, judges, prison staff, sign-language interpreters and the police and penitentiary system, on the rights of persons with disabilities.

H. Article 14 on liberty and security of the person, article 15 on freedom from torture or cruel, inhuman or degrading treatment or punishment, article 16 on freedom from exploitation, violence and abuse, and article 17 on protecting the integrity of the person

56. Persons with disabilities can be disproportionately affected by violence, abuse and other cruel and degrading punishment, which can take the form of restraint or segregation as well as violent assault. The Committee is particularly concerned about the following acts committed against persons with disabilities, including children on the grounds of impairment, which by definition are discriminatory: separation of children with disabilities from their families and forced placement in institutions; deprivation of liberty; torture or cruel, inhuman or degrading treatment or punishment; violence; and the forced treatment of persons with disabilities inside and outside of mental health facilities. States parties must take all appropriate measures, to provide protection from and prevent all forms of exploitation, violence and abuse against persons with disabilities. Forced corrective disability treatments should be prohibited.

I. Article 19 on living independently and being included in the community

57. Article 19 of the Convention reaffirms non-discrimination and recognition of the equal right of persons with disabilities to live with full inclusion and participation independently in the community. In order to realize the right to live independently and be included in the community, States parties must take effective and appropriate measures to facilitate the full enjoyment of the right and the full inclusion and participation of persons with disabilities in the community. This involves implementing deinstitutionalization strategies and, in accordance with the Committee's general comment No. 5 (2017) on living independently and being included in the community, allocating resources for independent living support services, accessible and affordable housing, support services for family carers and access to inclusive education.

58. Article 19 of the Convention recognizes the right not to be obliged to live in a particular living arrangement on account of one's disability. Institutionalization is discriminatory as it demonstrates a failure to create support and services in the community for persons with disabilities, who are forced to relinquish their participation in community life to receive treatment. The institutionalization of persons with disabilities as a condition to receive public sector mental health services constitutes differential treatment on the basis of disability and, as such, is discriminatory.

59. Eligibility criteria and procedures for gaining access to support services must be defined in a non-discriminatory way and must focus on the requirements of the person rather than the impairment, following a human rights-based approach. The development of support services should be person-centred, age- and gender-sensitive and culturally appropriate.

60. States parties should prohibit and prevent third parties from imposing practical or procedural barriers to living independently and being included in the community, for example by ensuring that services are in line with independent and community living and that persons with disabilities are not denied the possibility to rent or disadvantaged in the housing market.

J. Article 23 on respect for home and the family

61. Persons with disabilities often face discrimination in the exercise of their right to marry or their parental and family rights owing to discriminatory laws and policies, and administrative measures. Parents with disabilities are frequently seen as inadequate or unable to take care of their children. Separation of a child from his or her parents based on the disability of the child or parents or both is discrimination and in violation of article 23.

62. The placement of children in institutions on the basis of their impairment is also a form of discrimination prohibited by article 23 (5) of the Convention. States must ensure that parents with disabilities and parents of children with disabilities have the necessary support in the community to care for their children.

K. Article 24 on education

63. The failure of some States parties to provide students with disabilities — including students with visible and invisible disabilities and those who experience multiple forms of discrimination or intersectional discrimination — with equal access to mainstream school with inclusive and quality education is discriminatory, contrary to the objectives of the Convention and in direct contravention of articles 5 and 24. Article 5 (1) interacts with article 24 and requires States parties to remove all types of discriminatory barriers, including legal and social barriers, to inclusive education.

64. Segregated models of education, which exclude students with disabilities from mainstream and inclusive education on the basis of disability, contravene articles 5 (2) and 24 (1) (a) of the Convention. Article 5 (3) requires States parties to take all appropriate steps to ensure that reasonable accommodation is provided. That right is strengthened for persons with disabilities in article 24 (2) (b), which requires States parties to ensure an inclusive education for persons with disabilities on an equal basis with others in the communities in which they live. That goal can be achieved by providing reasonable accommodation of an individual's requirement, in accordance with article 24 (2) (c), and developing new and inclusive settings according to universal design. Standardized assessment systems, including entry examination that directly or indirectly exclude students with disabilities are discriminatory and in contravention of articles 5 and 24. States parties' obligations extend beyond the school. States parties must ensure school transportation is provided to all students with disabilities where transportation options are limited due to social or economic barriers.

65. To ensure equality and non-discrimination for deaf children in educational settings, they must be provided with sign language learning environments with deaf peers and deaf adult role models. The lack of proficiency in sign language skills of teachers of deaf children and inaccessible school environments exclude deaf children and are thus considered discriminatory. The Committee calls upon States parties to be guided by its general comment No. 4 (2016) on the right to inclusive education, when carrying out measures to fulfil their obligations under articles 5 and 24.

L. Article 25 on health

66. Under articles 5 and 25 of the Convention, States parties must prohibit and prevent discriminatory denial of health services to persons with disabilities and to provide gender-sensitive health services, including sexual and reproductive health rights. States parties must also address forms of discrimination that violate the right of persons with disabilities that impede their right to health through violations of the right to receive health care on the basis of free and informed consent,[15] or that make facilities or information inaccessible.[16]

M. Article 27 on work and employment

67. To achieve de facto equality in terms of the Convention, States parties must ensure that there is no discrimination on the grounds of disability in connection to work and employment.[17] In order to ensure reasonable accommodation as laid out in article 5 (3) and

[15] See general comment No. 1, para. 41.

[16] See general comment No. 2, para. 40.

[17] See the International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

to achieve or accelerate de facto equality in the work environment as laid out in article 5 (4), States parties should:

(a) Facilitate the transition away from segregated work environments for persons with disabilities and support their engagement in the open labour market, and in the meantime also ensure the immediate applicability of labour rights to those settings;

(b) Promote the right to supported employment, including to work assistance, job coaching and vocational qualification programmes; protect the rights of workers with disabilities; and ensure the right to freely chosen employment;

(c) Ensure that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start work;

(d) Expressly recognize the denial of reasonable accommodation as discrimination and prohibit multiple and intersectional discrimination, and harassment;

(e) Ensure proper transition into and out of employment for persons with disabilities in a non-discriminatory manner. States parties are obliged to ensure equal and effective access to benefits and entitlements, such as retirement or unemployment benefits. Such entitlements must not be infringed upon by exclusion from employment, thereby further exacerbating the situation of exclusion;

(f) Promote work in inclusive and accessible, safe and healthy working environments in the public and private sectors;

(g) Ensure that persons with disabilities enjoy equal opportunities regarding career advancement opportunities through regular assessment meetings with their managers and by defining the objectives to be achieved, as a part of a comprehensive strategy;

(h) Ensure access to training, retraining and education, including vocational training and capacity-building for employees with disabilities, and provide training on the employment of persons with disabilities and reasonable accommodation for employers, representative organizations of employees and employers, unions and competent authorities;

(i) Work towards universally applicable occupational health and safety measures for persons with disabilities, including occupational safety and health regulations that are non-discriminatory and inclusive of persons with disabilities;

(j) Recognize the right of persons with disabilities to have access to trade and labor unions.

N. Article 28 on adequate standard of living and social protection

68. As stated in paragraph 59 of the Committee's general comment No. 3, poverty is both a compounding factor and the result of multiple discrimination. Failure to implement the right of persons with disabilities to an adequate standard of living for themselves and their families is contrary to the objectives of the Convention. This failure is particularly worrying with regard to persons with disabilities living in extreme poverty or destitution. To reach an adequate standard of living comparable to others, persons with disabilities typically have additional expenses. This represents a particular disadvantage for children or older women with disabilities who live in extreme poverty and destitution. States parties should take effective measures to enable persons with disabilities to cover the additional expenses linked to disability. States parties are required to take immediate steps to provide persons with disabilities living in extreme poverty and destitution with a core minimum in terms of adequate food, clothing and housing.[18]

69. With regard to social protection, States parties are further required to implement a basic protection floor.

[18] See Committee on Economic, Social and Cultural Rights general comment No. 3 (1990) on the nature of States parties' obligations, para. 10.

O. Article 29 on participation in political and public life

70. Exclusion from electoral processes and other forms of participation in political life are frequent examples of disability-based discrimination. They are often closely linked to denial or restriction of legal capacity. States parties should aim to:

(a) Reform laws, policies and regulations that systematically exclude persons with disabilities from voting and/or standing as candidates in elections;

(b) Ensure that the electoral process is accessible to all persons with disabilities, including before, during and after elections;

(c) Provide reasonable accommodation to individual persons with disabilities and support measures based on the individual requirements of persons with disabilities to participate in political and public life;

(d) Support and engage with representative organizations of persons with disabilities in political participation process at the national, regional and international levels, including by consulting with such organizations in matters that concern persons with disabilities directly;

(e) Create information systems and legislation that allow for the continuous political participation of persons with disabilities, including between elections.

P. Article 31 on statistics and data collection

71. Data collection and analysis are essential measures to monitor anti-discrimination policies and laws. States parties should collect and analyse data, which must be disaggregated on the basis of disability and of intersectional categories. Data collected should provide information on all forms of discrimination. The data collected should be broad and cover statistics, narratives and other forms of data, such as indicators to assess the implementation and monitor the progress and effectiveness of new or ongoing initiatives and policies. Disability-inclusive indicators must be developed and used in a manner consistent with the 2030 Agenda for Sustainable Development. The design, collection and analysis of data should be participatory, i.e., undertaken in close and meaningful consultation with representative organizations of persons with disabilities, including children. People living in closed places, such as institutions or psychiatric hospitals, are often overlooked by research and studies collecting data, and should be systematically included in such studies.

Q. Article 32 on international cooperation

72. All international cooperation efforts, including the 2030 Sustainable Development Agenda, must be inclusive of and accessible to persons with disabilities and be guided by the Convention. States parties must develop monitoring frameworks with human rights indicators, and specific benchmarks and targets for each indicator, consistent with Goal 10 of the Sustainable Development Goals. All international cooperation must aim to advance non-discrimination legislation and policies that seek full inclusion in line with the Convention and the 2030 Sustainable Development Agenda and other related international human rights frameworks.

VIII. Implementation at the national level

73. In the light of the normative content and obligations outlined above, States parties should take the following steps to ensure the full implementation of article 5 of the Convention:

(a) Carry out studies on harmonizing national legislation and practices with the Convention, repeal discriminatory laws and regulations that are inconsistent with the

Convention and change or abolish customs and practices that are discriminatory against persons with disabilities;

(b) Develop anti-discrimination laws where they do not exist and enact disability-inclusive anti-discrimination laws that have a broad personal and material scope and provide effective legal remedies. Such laws can only be effective if they are based on a definition of disability that includes those who have long-term physical, including psychosocial, intellectual or sensory impairments, and should include past, present, future and presumed disabilities, as well as persons associated with persons with disabilities. Persons victimized by disability-based discrimination seeking legal redress should not be burdened by proving that they are "disabled enough" in order to benefit from the protection of the law. Anti-discrimination law that is disability-inclusive seeks to outlaw and prevent a discriminatory act rather than target a defined protected group. In that regard, a broad impairment-related definition of disability is in line with the Convention;

(c) Ensure that non-discrimination legislation extends to the private and public spheres, covers areas including education, employment, goods and services, and tackles disability-specific discrimination, such as segregated education, institutionalization, denial or restriction of legal capacity, forced mental health treatment, denial of the provision of sign language instructions and professional sign language interpretation, and denial of Braille or other alternative and augmentative modes, means and formats of communication;

(d) Promote the full inclusion of mainstream employment and vocational training services, including those that promote entrepreneurship and support the establishment of cooperatives and other forms of social economy;

(e) Ensure that the protection from discrimination for persons with disabilities has the same standard as for other social groups;

(f) Develop and carry out knowledge and capacity-building programmes, including training within public authorities and the informal economy, to ensure compliance with the Convention. Awareness and capacity-building should be developed and implemented with the meaningful participation of persons with disabilities and organizations representing the diverse range of persons with disabilities, and are crucial components for establishing a culture of tolerance and diversity, which is the bedrock for anti-discrimination law and policy;

(g) Monitor the number of discrimination claims on the basis of disability as a proportion of the total number of claims of discrimination, disaggregated by sex, age, barriers identified and the sector in which the alleged discrimination occurred, and provide information about cases that are settled out of court, in court and adjudicated, and the number of judgments that lead to compensation or sanctions;

(h) Establish accessible and effective redress mechanisms and ensure access to justice, on an equal basis with others, for victims of discrimination based on disability. This encompasses access by all persons with disabilities to effective judicial and/or administrative procedures, including effective and accessible complaint mechanisms, and to appropriate and — where applicable and subject to statutory test of means and merits — affordable quality legal aid. States parties should intervene in an effective and timely manner in the event of actions or omissions of public and private actors that violate the right to equality and non-discrimination of individual persons with disabilities and groups of persons with disabilities, both in relation to civil and political rights as well as economic, social and cultural rights. The recognition of judicial remedies of a collective nature or class actions can significantly contribute to effectively guaranteeing access to justice in situations that affect groups of persons with disabilities;

(i) Include in national anti-discrimination law the protection of individuals from adverse treatment or adverse consequences as a reaction to complaints or to proceedings aimed at enforcing compliance with equality provisions. Anti-discrimination legislation should also ensure that victims of discrimination are not unduly inhibited in obtaining redress or re-victimized. In particular, procedural rules should shift the burden of proof in civil procedures from the claimant to the respondent in cases where there are facts from which it may be presumed that there has been discrimination;

(j) Develop in close consultation with organizations of persons with disabilities, national human rights institutions and other relevant stakeholders, such as equality bodies, an equality policy and strategy that is inclusive and accessible to all persons with disabilities;

(k) Increase knowledge in all parts of society, including among State officials of all branches of government and within the private sector, about the scope, content and practical consequences of the rights to non-discrimination and equality of all persons with disabilities;

(l) Adopt appropriate measures to monitor inclusive equality regularly and comprehensively. This includes collecting and analysing disaggregated data on the situation of persons with disabilities;

(m) Ensure that national monitoring mechanisms under article 33 of the Convention are independent, involve representative organizations of persons with disabilities effectively and are adequately resourced to address discrimination against persons with disabilities;

(n) Provide specific protections against and exercise due diligence to prevent and redress incidents of violence, exploitation and abuse and violations of bodily integrity experienced uniquely or disproportionately by persons with disabilities;

(o) Adopt specific measures with a view to achieving inclusive equality, in particular for persons with disabilities who experience intersectional discrimination, such as women, girls, children, older persons, and indigenous persons with disabilities;

(p) States parties that receive a high number of asylum seekers, refugees or migrants should put in place formal, legally defined procedures to ensure accessibility for persons with disabilities, including women and children with disabilities and persons with psychosocial and intellectual disabilities, in reception facilities and other settings. States parties must ensure that psychosocial and legal counselling, support and rehabilitation is provided for persons with disabilities and that protection services are disability-, age- and gender-sensitive and culturally appropriate.